

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

VALOR PERSONAL ASSISTANCE

SERVICE, INC.,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

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CAUSE NO. 3:24-cv-00176-LS

**PARTIES' JOINT STATUS REPORT, PROPOSED PROVISIONAL DISCOVERY
PLAN, AND PROPOSED SCHEDULING ORDER**

TO THE HONORABLE LEON SCHYDLOWER:

Pursuant to Federal Rule of Civil Procedure 26(f), Plaintiff Valor Personal Assistance Service, Inc. and Defendant Bank of America, N. A. conferred and now jointly submit this Joint Status Report, Proposed Provisional Discovery Plan, and Proposed Scheduling Order:

NATURE OF THE CASE

1. Plaintiff sued Defendant for negligence, breach of contract, breach of fiduciary duty, conversion, and vicarious liability through both ratification and respondent superior.

Defendant has denied all claims and has requested dismissal of this action under Rule 12(b)(6) (see Motion to Dismiss at Dkt. 3).

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

2. The Parties agree to file all motions to amend or supplement pleadings or to join additional parties no later than August 1, 2024.

PROVISIONAL DISCOVERY PLAN

3. Initial Disclosures Required by Rule 26(a)(1). The Parties agree that initial disclosures will be due on September 2, 2024.
4. Discovery Plan. The parties anticipate propounding Interrogatories, Requests for Production, and Requests for Admission to discover the basic facts of the case, and relevant information in accordance with the Federal Rules of Civil Procedure. The parties also anticipate serving written discovery to non-parties consisting of Plaintiffs' cell phone records, and other non-parties as may be discovered. After the exchange of written discovery, the parties anticipate moving forward with oral depositions and possibly further records requests from third parties, such as additional cell phone records. In addition, Defendant contends that discovery should be stayed pending the Court's disposition of Defendant's still pending Motion to Dismiss (Dkt. 3) and that the discovery described herein should only be conducted if not precluded by the disposition of said Motion.
5. Limitations of Discovery. The Parties stipulate any depositions on written questions will not count toward the 10-deposition limit imposed by the Federal Rules of Civil Procedure. The Parties further agree to confer with each other regarding availability for the scheduling of depositions prior to serving any notice of oral deposition. Aside from this, the Parties do not presently anticipate any need to alter the discovery procedures contemplated by the Federal Rules of Civil Procedure or the Local Civil Rules of the Western District of Texas.
6. Privilege Issues. At this point, no privilege issues are anticipated.
7. Parties resisting claims for relief shall file their designation of potential witnesses, designation of testifying experts, expert reports, and a list of proposed exhibits, and shall serve on all parties the materials required by the Federal Rules of Civil Procedure on or

before **October 1, 2024**. All designations of rebuttal experts shall be filed within 30 days of receipt of the report of the opposing expert.

8. **Electronic Discovery**. The Parties agree any electronic media produced in this case shall be in nonnative or print format. If there is compelling reason for production of certain items in native format, the Parties shall cooperate, provided it is not unduly burdensome to do so, or the Parties may otherwise seek judicial intervention. The Parties agree any documents may be electronically produced on CDs or via electronic transfer in lieu of paper copies.
9. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed no later than **January 1, 2025**.
10. Plaintiff will submit a demand to Defendant in writing by **February 3, 2025**. Defendant will submit a response to Plaintiff's demand in writing by **March 3, 2025**.
11. The Parties shall complete discovery by **April 1, 2025**.

PRETRIAL MOTIONS

12. The Parties shall file all dispositive motions, if any, no later than **May 1, 2025**. Dispositive motions shall be limited to the page-limits set out in the Local Civil Rules of the United States District Court for the Western District of Texas.
13. All objections or motions under Rule 702 or Rule 703 of the Federal Rules of Evidence shall be filed with the Court and served upon opposing Parties no later than **June 2, 2025**.

ESTIMATED TRIAL TIME

14. The Parties estimate trial will require 2-3 days. Plaintiff has requested a trial by jury for **August 1, 2025**. Defendant contends that Plaintiff has waived its right to a trial by jury under the express terms of the parties' contract (*see* Deposit Agreement and Disclosures).
15. The Parties request a pretrial conference on or after **July 15, 2025**.

SETTLEMENT

16. The Parties have not engaged in settlement negotiations but believe that mediation will be fruitful. The parties agree to mediate the case with a mediator agreed to by both parties.

17. Orders under Rule 26(c) or Federal Rule of Civil Procedure 16(b)-(c). The Parties do not seek any further orders under Rules 26(c) or 16(b)-(c) at this time, but Defendant anticipates moving for a protective order in the event Plaintiff requests its internal policies and procedures through discovery.

Accordingly, the Parties respectfully pray the Court take notice of the foregoing Joint Status Report and Proposed Provisional Discovery Plan and grant such other and further relief, general or special, at law or in equity, to which they may be so justly entitled.

Respectfully submitted,

s/ Felix Valenzuela (with permission)
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CERTIFICATE OF SERVICE

The undersigned certifies that on July 22, 2024, a true and correct copy of the foregoing document was electronically filed with the clerk of the District Court using the Case Management/Electronic Case Files (“CM/ECF”) system. The CM/ECF system sent a “Notice of Electronic Filing” to the attorneys registered for service in the system.

/s/ Matthew D. Durham
MATTHEW D. DURHAM